



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Robert L. Davis

SUBJECT: FALSE ALARM FINES

DATE: May 23, 2008

Approved

Christine J. Shippey

Date

5-23-08

BACKGROUND

At the City Council budget study sessions for the 2008-2009 Proposed Budget, the Mayor asked for clarification regarding false alarm fines and why they are not listed in the City's Fees and Charges document. Additionally, the Mayor asked for the cost recovery level for the Department's responses to false alarms. This memorandum provides information on the City's false alarm fines and preliminary analysis of current cost recovery levels.

ANALYSIS

Regulatory fees are charged for providing regulatory activities or services. A regulatory fee is limited to the reasonable cost of the services necessary for the activity for which the fee is charged and for carrying out the purpose of the regulation. On the other hand, a fine or penalty does not have to be limited to recovery of the cost of the governmental regulatory activity or service. A civil fine or penalty can be set in order to achieve punitive or deterrent purposes in keeping with the underlying law.

The City Council enacted the current False Alarm Ordinance in 1995 in response to a report from the Santa Clara County Grand Jury, which recommended the City 1) decriminalize false alarm violations and 2) fine violators only for the third and subsequent false alarm response within a given reporting period. The City Council directed the City Attorney to prepare an ordinance amendment to decriminalize false alarm violations. On January 24, 1995, the City Council amended SJMC Chapter 10.42 to decriminalize enforcement and rely on administrative citations to enforce the prohibition against third and subsequent false alarms within a static 60 day period. At the end of the 60 day period the same responsible party can get two new warnings before being subject to an administrative citation.

Administrative citations result in the imposition of an administrative fine, which is set out in the Council Resolution No. 74033 establishing the administrative citation schedule of fines. The administrative citation fine for the third false alarm within a static 60 day period is \$50 and \$100

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for the fourth false alarm within the 60 day period. The administrative citation fine for the fifth and every subsequent false alarm within the 60 day period is \$250.

Preliminary analysis of calendar year 2007 shows the average response time for false alarms was 20.47 minutes for an average cost of \$74.21 per call. The average time is based on initial dispatch to the responding officer closing the call and does not include queuing time. The cost per call assumes two officers respond to the call. From July 1, 2007, through March 31, 2008, the Department received approximately 21,500 alarm calls. Of those alarm calls, approximately 8,500 were considered for administrative citation under the false alarm program. Of these false alarms considered for administrative citation, only 927 citations were issued for a total of \$56,352. Based on the average cost per call above, the total cost for police to respond to the 8,500 false alarms is approximately \$631,000.

It has been the Department's experience that the False Alarm Ordinance as currently written does not appear to deter false alarms, nor recover the average cost of police responses to burglary and robbery false alarms. The level of administrative citation fines is low in comparison with other provisions of the Municipal Code, especially given the cost of the police response.

Moreover, the 60 day reporting period results in few fines being charged, which does not encourage repeat violators to fix their alarm systems and/or business practices to prevent the recurrence of false alarms. The False Alarm Ordinance gives responsible parties two "free" false alarms every 60 days and then allows the violator a new pair of free false alarms every succeeding 60 day period.

If the City Council wished to increase the cost recovery levels for responding to false alarms, and better align with most adjoining municipalities, as well as the City's own practice with respect to other violations of mandatory provisions of the Municipal Code, the Council might consider revisions to the false alarm fines. Possible revisions that could be considered include: imposing an administrative citation for the first violation or at most after one warning; repealing the two free false alarms each 60 day period; and/or distinguishing between false alarms at residential versus nonresidential uses in terms of the amount of the administrative citation fine. These changes would require amending the ordinance, SJMC Chapter 10.42, and the Council resolution establishing the administrative citation schedule of fines, Resolution No. 74033.

COORDINATION

This MBA has been coordinated with the City Manager's Budget Office and the City Attorney's Office.

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If you have any further questions regarding these issues, please feel free to contact Lt. Laurence Ryan #2802, Commander of the Research and Development Unit, Office of the Chief of Police, at 408-277-5200, or via email at Laurence.Ryan@sanjoseca.gov.

A handwritten signature in black ink, appearing to read "R. Davis", with a stylized flourish at the end.

ROBERT L. DAVIS
Chief of Police